



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Release Number: **201247019**

Release Date: 11/23/2012

Date: August 29, 2012

UIL: 501.12-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(12). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Director, Exempt Organizations

Enclosure

Notice 437

Redacted Proposed Adverse Determination Letter

Redacted Final Adverse Determination Letter



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: June 13, 2012

Uniform Issue List: 501.12-00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

You(r)/Applicant:

Date 1:

Date 2:

State 1:

State 2:

City 1:

City 2:

X:

Dear

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(12). The basis for our conclusion is set forth below.

I. FACTS

You were organized on Date 1 as a nonprofit corporation under the laws of State 1. You are organized for three purposes: (1) to "bring the Ethiopian community together for mutual help"; (2) to operate according to the Ethiopian "Idir" tradition; and (3) "to build strong relations that will foster mutual assistance among the members of the associations." You filed Form 1024, Application for Recognition of Exemption Under Section 501(a), on Date 2 seeking recognition as an I.R.C. § 501(c)(12) benevolent life insurance association or "like" organization.

You are a burial association practicing the Ethiopian idir tradition. An "idir" is

a popular social organization in Ethiopian [sic] across all cities and towns. The core mission of the typical Ethiopian Idir is for a given group of people to come together to help each other in the event of death. Services rendered include notifying members about the loss so they would pay their respects by visiting the grieving person and family, preparing meals for the family and their guests, taking care of burial arrangements, and making financial contributions. Idir is

counted on to fill in to ease the burden on the grieving member of the association and his/her family during such difficult times. Burial-associated expenses are easily covered by the Idir.

In accordance with this tradition, you provide monetary assistance and emotional support to your members. You are not a funeral home and you do not manufacture funeral supplies or provide funeral home services.

A "member" is an individual who satisfies the requirements set forth by your Bylaws. Your membership is limited to any Ethiopian or Ethiopian American who is 18 years or older, resides in the greater City 1 area including City 2, and agrees to abide by your Bylaws. Specifically, you accept applications from eight contiguous counties, five in State 1 and three in State 2 (hereinafter, "specified geographic area"). You are currently accepting membership from City 2 and its surrounding suburbs. You reject membership applications from any individual not residing within the specified geographic area. However, any member who originally resided within the specified geographic area may retain his membership if he moves away. You or the member may cancel his membership. Upon resignation or termination, the member may elect to receive his pro-rata share of your assets as of the date of termination. You do not advertise your services.

Each of your "policies" covers multiple individuals: the member; the member's spouse; the member's children under the age of 18 or children between the ages of 18 and 23 who are students and dependents of the member; and both the member's and the spouse's parents (collectively, "covered individual"). Upon the death of a member or a covered individual, the member or the member's family receives a fixed monetary distribution (in cash) to help defray funeral costs. Each member receives the same amount. The distribution amount is set and voted upon by the general assembly of members.

Additionally, non-bereaved members "have the duty as [sic] to attend funerals at the designated time, or if the funeral is going to be held in Ethiopia to accompany the bereaved to the airport according to the directions of the Board of Directors." Members are excused from this requirement if they were unaware of the death. You currently have 47 members, three of which live in suburbs of City 2, and cover a total of 282 individuals.

You also conduct a biannual picnic for your members and moderate an e-mail group that lets members share news of sickness, births, and deaths. You state that "[s]uch occasions provide opportunities for families to know each other and to establish connections." None of your funds are used for these events; members make voluntary contributions to cover any expenses.

Your funds are held for the use and benefit of your members. Currently, your sole source of income is membership fees and dues. Members pay a \$5x registration fee upon joining and then make monthly contributions of \$1x. You may receive gifts from donors or other income, but you have not received any such income to date. Any funds collected in excess of expenses are held to meet future losses. Specifically, you are authorized to hold excess funds sufficient to cover three deaths. The Board is authorized to make periodic returns of premiums to members.

Your day-to-day operations are performed by a six-person Board of Directors composed of a Chairman, a Vice-Chairman, a Secretary, a Controller, a Treasurer, and an Auditor (collectively,

"Directors"). Directors are elected by and serve at the pleasure of the general assembly of members for two-year terms. Board meetings are "valid only if attended by more than half of its members."

II. LAW

I.R.C. 501(c)(12) provides for the exemption of benevolent life insurance companies of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations, but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Treas. Reg. § 1.501(c)(12)-1(a) provides that an organization described in I.R.C. § 501(c)(12) must receive at least 85 percent of its income from amounts collected from members for the sole purposes of meeting losses and expenses. If an organization issues policies for stipulated cash premiums, or if it requires advance deposits to cover the cost of the insurance and maintains investments from which more than 15 percent of its income is derived, it is not entitled to exemption. On the other hand, an organization may be entitled to exemption, although it makes advance assessments for the sole purpose of meeting future losses and expenses, provided that the balance of such assessments remaining on hand at the end of the year is retained to meet losses and expenses or is returned to members.

Treas. Reg. § 1.501(c)(12)-1(b) provides that the phrase "of a purely local character" applies to benevolent life insurance associations, and not to other organizations specified in I.R.C. § 501(c)(12). It also applies to any organization seeking exemption on the ground that it is an organization similar to a benevolent life insurance association. An organization of a purely local character is one whose business activities are confined to a particular community, place, or district, irrespective, however, of political subdivisions. If the activities of an organization are limited only by the borders of a State, it cannot be considered to be purely local in character.

Rev. Rul. 64-193, 1964-2 C.B. 151, held that a benevolent life insurance company empowered by a state permit to operate in any county within 75 miles of its home office, but also issued policies to residents outside that area, did not qualify under I.R.C. § 501(c)(12). In determining whether a benevolent life insurance company is of a purely local character, the important criterion is that the business be transacted, and be authorized to be transacted, in a single community, place or district and not several different localities. An area which includes two or more large trade centers cannot be called "purely local in character." The instant organization was authorized to transact business in one of the most populous areas of the state, and the authorized 32 counties included three distantly separated large metropolitan trade center areas, and rural areas.

Rev. Rul. 65-201, 1965-1 C.B. 170, held that "like organizations" as used in the statute is limited by the types of organizations specified in the statute.

Rev. Rul. 72-36, 1972-1 C.B. 121, describes certain requirements that cooperative companies must meet for exemption under I.R.C. § 501(c)(12).

1. The interests of members in the savings of an organization should be determined in proportion to their business with the organization. The interests of members in the savings of the organization may be determined in proportion to either the value or the

quantity of the services purchased from the organization, provided such basis is realistic in terms of actual cost of the services to the organization.

2. The organization may retain funds in excess of those needed to meet current losses and expenses for such purposes as retiring indebtedness incurred in acquiring assets, expanding the services of the organization, or maintaining reserves for necessary purposes, but such funds may not be accumulated beyond the reasonable needs of the organization's business. Whether there is an improper accumulation of funds depends upon the particular circumstances of each case.
3. To maintain its mutual or cooperative character, an organization must keep such records as are necessary to determine, at any time, each member's rights and interest in the assets of the organization.
4. If, under the bylaws, a member's rights and interests have been forfeited, the organization has not operated on a mutual or cooperative basis and is therefore not exempt.
5. Upon dissolution, gains from the sale of an appreciated asset should be distributed to all persons who were members during the period which the asset was owned by the organization in proportion to the amount of business done by such members during that period, insofar as practicable.

Thompson v. White River Burial Association, 178 F.2d 954, 957 (8th Cir. 1950), determined that organizations providing burial and funeral benefits are engaged in activities similar to benevolent life insurance and therefore are "like organizations" within the meaning of I.R.C. § 501(c)(12).

Huff-Cook Memorial Burial Ass'n. v. United States, 327 F. Supp. 1209 (W.D. Va. 1971), held that that a benevolent life insurance association that solicited business via television advertisement in four states and never rejected business from outside the authorized area was not of a "purely local character."

Hardware Underwriters v. United States, 65 Ct. Cl. 267 (1928), held that a benevolent life insurance association that operated in 27 states was not of a "purely local character" within the meaning of I.R.C. § 501(c)(12). The court determined that such an organization must confine its operations to a single identifiable location.

III. RATIONALE:

An organization seeking exemption under I.R.C. § 501(c)(12) must satisfy three requirements. First, it must be organized and operated as a cooperative (the "organizational and operational tests"). Second, it must conduct activities described in I.R.C. § 501(c)(12) (the "activities test"). Finally, it must derive at least 85 percent of its income from members for the sole purpose of meeting losses and expenses (the "income source test"). The materials you submitted state that you are seeking recognition as an I.R.C. § 501(c)(12) benevolent life insurance association or "like" organization. Based upon a review of your application, you are not described in I.R.C. § 501(c)(12) as explained below.

1. Organizational and Operational Test

You are neither organized nor operated as an I.R.C. § 501(c)(12) organization. In order to be organized as an I.R.C. § 501(c)(12) organization, your Articles must include the five statements required by Rev. Rul. 72-36, 1972-1 C.B. 121. Your Articles state that you are organized for three purposes: (1) to "bring the Ethiopian community together for mutual help"; (2) to operate according to the Ethiopian "Idir" tradition; and (3) "to build strong relations that will foster mutual assistance among the members of the associations." None of these purposes are recognized as an I.R.C. § 501(c)(12) purpose. Furthermore, your Articles do not contain the five statements required by Rev. Rul. 72-36. Thus, you are not organized as an I.R.C. § 501(c)(12) organization.

Even if you were organized as an I.R.C. § 501(c)(12) organization, you are not operated as such. Among other things, Rev. Rul. 72-36 requires an I.R.C. § 501(c)(12) organization to determine the rights and interests of the members in the savings of an organization in proportion to their business with the organization and to maintain such records as are necessary to determine, at any time, each member's rights and interest in the assets of the organization. You define "member" as "an individual who became a member of the association satisfying the criteria of membership in these bylaws." Membership is available to a limited portion of the population in City 1 and City 2. In the event of a death, a member's "policy" may cover multiple individuals. However, members pay a fixed, monthly membership fee regardless of the number individuals covered. Thus, if a member receives a pro-rata distribution of the organization's savings, that distribution is not made proportion to the amount of business done with you. Furthermore, you failed to show that you keep adequate records as required by the ruling.

2. Activities Test

You are a "like organization" within the meaning of I.R.C. § 501(c)(12). This section provides for the exemption of benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations as long as certain conditions are met. The term "like organizations" is limited by the types of organization specified in I.R.C. § 501(c)(12) and is therefore applicable only to those cooperative or mutual organizations engaged in activities similar to, in this case, a benevolent life insurance association. Rev. Rul. 65-201, 1965-1 C.B. 170. Organizations providing burial and funeral benefits are engaged in activities similar to benevolent life insurance and therefore are "like organizations" within the meaning of I.R.C. § 501(c)(12). Thompson v. White River Burial Association, 178 F.2d 954, 957 (8th Cir. 1950). You provide burial and funeral benefits to your members upon the death of the member or a covered individual. Therefore, you are a "like organization" within the meaning of I.R.C. § 501(c)(12).

However, you are not "of a purely local character." The phrase "of a purely local character" applies both to benevolent life insurance associations and any organization seeking exemption on the ground that it is an organization similar to a benevolent life insurance association. Treas. Reg. § 1.501(c)(12)-1(b). An organization is of a "purely local character" if its business activities are confined to a particular community, place, or district, irrespective, however, of political subdivision. Treas. Reg. § 1.501(c)(12)-1(b). In Rev. Rul. 64-193, 1964-2 C.B. 151, the Service noted that the word "purely" intensified and limited "local," indicating the intention of Congress to limit exemption as an I.R.C. § 501(c)(12) benevolent life insurance association and like organizations that are "entirely and unqualifiedly 'local' in their operations." Therefore, the

conduct of any activity outside of a local area prevents the association from being “purely local” in character. The Service then specifically stated that any association operating in two or more large trade centers was not of a “purely local character.” Rev. Rul. 64-193; see, e.g., Huff-Cook Memorial Burial Ass’n. v. United States, 327 F. Supp. 1209 (W.D. Va. 1971); Hardware Underwriters v. United States, 65 Ct. Cl. 267 (1928). You are not of a “purely local character” because you transact business in two large metropolitan trade centers in State 1 and State 2 (i.e., City 1 and City 2). Furthermore, your 42 members are spread over eight contiguous counties in State 1 and State 2.

3. Income Source Test

Although you receive 100 percent of your income from your members, you fail the 85 percent income source test. The Regulations provide that “[i]f an organization issues policies for stipulated cash premiums . . . it is not entitled to exemption.” Treas. Reg. § 1.501(c)(12)-1(a). You pay a fixed amount upon the death of a member or a covered individual. This amount is set and voted upon by the general assembly. Thus, you pay a stipulated cash premium in violation of I.R.C. § 501(c)(12).

CONCLUSION

Based the foregoing, you do not qualify as an I.R.C. § 501(c)(12) benevolent insurance association or “like” organization. You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

This declaration must be signed by an elected officer, a member of the board of directors, or a trustee rather than an attorney or accountant.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
TE/GE (SE:T:EO:RA:T3)

1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Director, Exempt Organizations